THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.21100 OF 2006

11.10.2006

Between:

Syed Mohd. Ahsan, S/o.Syed Mohammed @ Pashamiya

… Petitioner

AND

The Chief Executive Officer, A.P.State Wakf Board, Nampally, Hyderabad

And others

… Respondents

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WRIT PETITION No.21100 OF 2006

ORDER:

The petitioner claims that his father late Syed Mohammed @ Pashamiya was acting as Muthawalli of Masjid-e-Mahadevia (Sifali) situated at Moti Market, Kachiguda, that after the death of the father, he was looking after the wakf. He also alleges that he made application to the first respondent to appoint him as Muthawalli, but even while the same is pending, by impugned proceedings dated 03.11.2005, the first respondent appointed the second respondent as Muthawalli of the wakf. Therefore, the petitioner seeks invalidation of the impugned proceedings.

If the petitioner is aggrieved by the impugned proceedings, he has effective remedy of making application under Section 83(2) of the Wakf Act, 1994 (the Act), to A.P. State Wakf Tribunal. In view of this, the writ petition cannot be entertained. As held by two Division Benches of this Court in **M.Bikshapathi v Government of Andhra Pradesh**[1] and **Allauddin Charities and Zakath Wakf v Hameed Ali**[2], jurisdiction under Article 226 of Constitution of India cannot be exercised bypassing the remedy under Section 83 of the Act. The petitioner if so advised may approach the A.P. State Wakf Tribunal and seek redressal.

The writ petition is accordingly dismissed. No costs.

(**V.V.S.RAO, J**)

October 11, 2006
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[1] 1999 (6) ALD 270 (DB) = 2005 (2) ALT 271 (DB)

[2] 2002 (1) ALD 67 (DB)